

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION**

MICHAEL G. POSTAWKO, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 2:16-CV-04219 NKL
	)	
MISSOURI DEPARTMENT OF	)	<b>HEARING REQUESTED</b>
CORRECTIONS, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to Fed. R. Civ. P. 65, Plaintiffs move this Court for entry of a preliminary injunction following an evidentiary hearing. In support of this motion, Plaintiffs state:

1. This case involves Defendants' deliberate indifference to the constitutional rights of inmates with a chronic viral infection of hepatitis C (HCV)—a disease which, if left untreated, can lead to (among other things) permanent liver damage, cancer, and death. Fortunately, there is effective treatment with direct-acting antiviral drugs, which have a near-perfect cure rate.

Although the medical community long has been in consensus that treatment with DAAs is the medically appropriate treatment for nearly all people with chronic HCV infections, Defendants systematically deny this treatment to suffering class members. As of February 26, 2019, Defendants have provided DAA treatment to only 15 of the 4,590 inmates diagnosed with chronic HCV infections—less than 0.5% of class members.

2. Now that the Eighth Circuit has affirmed this Court's class certification ruling (see ECF No. 215) and the stay of litigation has been lifted, Plaintiffs seek injunctive relief on behalf of the class to stop the ongoing, irreparable harm to their health they continue to experience as they suffer without treatment.

3. For the reasons set forth in the accompanying suggestions, Plaintiffs are entitled to injunctive relief. Briefly:

- a. Plaintiffs are likely to prevail on the merits of their claim.
- b. Absent an injunction, they will suffer ongoing, irreparable harm to their health because Defendants refuse to treat their chronic HCV.
- c. The balance of harms weighs strongly in favor of granting an injunction. The continued threat of significant adverse health consequences to Plaintiffs, and ultimately to the community at large, far outweighs any burden providing treatment places on Defendants.
- d. Finally, an injunction is in the public interest. Protection of constitutional rights is always in the public interest, and immediate relief would ensure the protection of Plaintiffs' constitutional rights and mitigate their ongoing medical harm. Furthermore, without injunctive relief, there is a significant and unnecessary public health risk that HCV will spread within the correctional setting and outside of it as infected individuals are released from prison.

4. For these reasons, discussed more fully in the suggestions filed contemporaneously herewith, the Court should grant Plaintiffs' motion for a preliminary injunction.

5. Plaintiffs request an evidentiary hearing on the relief sought herein.

WHEREFORE, Plaintiffs respectfully request that the Court grant their motion for a preliminary injunction requiring Defendants to implement a policy that complies with the standard of care for inmates with chronic HCV infection, as set forth in the AASLD/IDSA

guidelines, and grant such other relief which the Court deems just and fair under the circumstances.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was filed electronically and served by operation of the CM/ECF system on all counsel of record on June 17, 2019.

/s/ Anthony E. Rothert